

# CRAVATH, SWAINE & MOORE

ONE CHASE MANHATTAN PLAZA

NEW YORK, N.Y. 10005

212 HANOVER 2-3000

TELEX

RCA 233663

WUD 125547

WUJ 620976

MAURICE T. MOORE  
BRUCE BROMLEY  
WILLIAM B. MARSHALL  
RALPH L. McAFEE  
ROYALL VICTOR  
ALLEN H. MERRILL  
HENRY W. DE KOSMIAN  
ALLEN F. MAULSBY  
STEWART R. BROSS, JR.  
HENRY P. RIORDAN  
JOHN R. HUPPER  
SAMUEL C. BUTLER  
WILLIAM J. SCHRENK, JR.  
BENJAMIN F. CRANE  
FRANCIS F. RANDOLPH, JR.  
JOHN F. HUNT  
GEORGE J. GILLESPIE, III  
RICHARD S. SIMMONS  
WAYNE E. CHAPMAN  
THOMAS D. BARR  
MELVIN L. BEDRICK  
GEORGE T. LOWY  
ROBERT ROSENMAN

JAMES H. DUFFY  
ALAN J. HRUSKA  
JOHN E. YOUNG  
JAMES M. EDWARDS  
DAVID G. ORMSBY  
DAVID L. SCHWARTZ  
RICHARD J. HIEGEL  
FREDERICK A. O. SCHWARZ, JR.  
CHRISTINE BESHAR  
ROBERT S. RIFKIND  
DAVID O. BROWNWOOD  
PAUL M. DODYK  
RICHARD M. ALLEN  
THOMAS R. BROME  
ROBERT D. JOFFE  
ROBERT F. MULLEN  
ALLEN FINKELSON  
RONALD S. ROLFE  
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MARTIN L. SENZEL  
DOUGLAS D. BROADWATER  
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COUNSEL  
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GEORGE G. TYLER

CARLYLE E. MAW  
L. R. BRESLIN, JR.  
GEORGE B. TURNER  
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75006 PARIS, FRANCE  
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33 THROGMORTON STREET  
LONDON, EC2N 2BR, ENGLAND  
TELEPHONE 01-606-1421  
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CABLE ADDRESSES  
CRAVATH, N.Y.  
CRAVATH, PARIS  
CRAVATH, LONDON E.C. 2

RECORDATION NO. 9811- F Filed 1425

FEB 14 1979 2 45 PM

INTERSTATE COMMERCE COMMISSION

No.

FEB 14 1979

Date

Fee \$10.00

ICC Washington, D. C.

February 14, 1979

The Chesapeake and Ohio Railway Company  
Lease Financing Dated as of October 1, 1978  
9-3/8% Conditional Sale Indebtedness  
Due February 15, 1987

Dear Sir:

Enclosed herewith for filing pursuant to 49 U.S.C.  
§ 11303 is an Amendment and Agreement dated as of February 1,  
1979.

The addresses of the parties to the aforementioned  
agreement are:

Owner-Lessor-Vendee-Buyer

Connell Rice & Sugar Co., Inc.  
(Connell Leasing Company Division)  
45 Cardinal Drive  
Westfield, New Jersey 07902

Builder

The Chesapeake and Ohio Railway Company  
Two North Charles Street  
Baltimore, Maryland 21201

FEB 14 2 40 PM '79  
FEE OPERATION  
I.O.C.

Lessee-Railroad-Seller

✓ The Chesapeake and Ohio Railway Company  
Two North Charles Street  
Baltimore, Maryland 21201

Agent-Vendor

Mercantile-Safe Deposit and Trust Company  
Two Hopkins Plaza  
P. O. Box 2258  
Baltimore, Maryland 21203

Please file and record the documents referred to in this letter, and cross index them under the names of the Owner-Lessor-Vendee-Buyer, the Builder, the Lessor-Railroad-Seller and the Agent-Vendor.

The equipment covered by the aforementioned Amendment and Agreement is listed in Exhibit A attached hereto.

The Amendment and Agreement amends:

(a) a Reconstruction and Conditional Sale Agreement dated as of October 1, 1978, among Mercantile-Safe Deposit and Trust Company, The Chesapeake and Ohio Railway Company and Connell Rice & Sugar Co., Inc., (Connell Leasing Company Division), which was filed pursuant to 49 U.S.C. § 11303 on October 31, 1978, under Recordation No. 9811; and

(b) a Lease of Railroad Equipment dated as of October 1, 1978, between The Chesapeake and Ohio Railway Company and Connell Rice & Sugar Co., Inc., (Connell Leasing Company Division), which was filed pursuant to 49 U.S.C. § 11303 on October 31, 1978, under Recordation No. 9811-B.

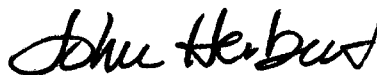
This Amendment and Agreement should be assigned  
Recordation No. 9811-E.

Enclosed is a check for \$10 for the required recordation fee. Please accept for recordation one counterpart of the enclosed agreement, stamp the remaining counterparts with your

*error*  
*See file*  
*for action taken*  
*on specific*  
*numbers.*

recording number and return them to the delivering messenger along with your fee receipt, addressed to the undersigned.

Very truly yours,



John S. Herbert,  
As Agent for The Chesapeake and  
Ohio Railway Company

Mr. H. G. Hommes, Jr.,  
Acting Secretary,  
Interstate Commerce Commission,  
Washington, D. C. 20423

Encls.

22

BY HAND

SCHEDULE A  
(Continued)Railroad Road Numbers

A.

C&O

22002	22047	22111	22157
22004	22049	22113	22193
22008	22060	22114	22194
22017	22069	22128	22199
22021	22077	22132	22209
22025	22078	22137	22212
22032	22087	22141	22230
22033	22093	22143	22242
22038	22094	22150	22243
22041	22108	22156	22249

B.

C&O

27818	27958	28059	28700
27836	27963	28063	28797
27839	27975	28153	28809
27851	27982	28192	28824
27898	27983	28312	28846
27957	28043	28689	

C.

C&O

27831	28020	28501	28766
27885	28021	28530	28779
27926	28067	28568	28954
27954	28247	28669	
27996	28420	28692	

D.

C&O

19754 19787 19880 19950  
 19759 19789 19903 19952  
 19761 19792 19909 19953  
 19764 19804 19914 19961  
 19768 19824 19919 19977  
 19769 19839 19931 19979  
 19772 19842 19943  
 19784 19858 19944

See Item 6  
 of Exhibit A  
 to Amendment

E.

B&O

288016 288156 288363 288554  
 288061 288217 288384 288606  
 288066 288228 288399 288633  
 288072 288230 288414 288645  
 288123 288276 288470 288668  
 288127 288300 288497 288684  
 288138 288323 288526  
 288151 288361 288529

F.

B&O

352000	352144	352259	352363
352005	352147	352260	352365
352010	352151	352263	352369
352011	352153	352264	352370
352012	352154	352265	352372
352015	352161	352267	352373
352016	352165	352271	352375
352018	352167	352274	352378
352019	352169	352278	352382
352020	352171	352279	352383
352022	352176	352280	352387
352024	352177	352281	352388
352025	352178	352283	352390
352026	352179	352285	352391
352030	352180	352287	352395
352032	352182	352291	352396
352033	352188	352292	352398
352038	352190	352293	352400
352039	352192	352294	352401
352042	352193	352295	352402
352043	352194	352296	352408
352045	352195	352297	352409
352051	352198	352299	352411
352061	352201	352300	352415
352072	352202	352301	352418
352075	352203	352302	352422
352076	352208	352303	352424
352077	352209	352304	352425
352078	352210	352306	352431
352080	352211	352308	352433
352081	352212	352310	352434
352082	352213	352312	352435
352085	352216	352319	352438
352086	352221	352321	352439
352089	352224	352323	352442
352091	352231	352324	352444
352094	352234	352325	352445
352095	352235	352327	352447
352099	352238	352328	352456
352100	352239	352329	352457
352102	352240	352330	352462
352104	352246	352331	352466
352113	352247	352332	352469
352117	352248	352334	352474
352121	352250	352340	352475
352125	352251	352344	352476
352132	352252	352346	352494
352135	352253	352347	352496
352136	352254	352358	352497
352139	352255	352361	352499

See  
to Item 6  
of Exhibit A  
of Amendment

G.

WM

71232	80028	80142	80318
71235	80030	80146	80323
71244	80032	80148	80334
71276	80034	80151	80345
71277	80037	80179	80348
71311	80040	80181	80354
71314	80053	80185	80368
71359	80055	80187	80370
71391	80071	80195	80372
71397	80073	80208	80379
71404	80078	80210	80391
71443	80080	80214	80397
71445	80082	80219	80412
71447	80096	80221	80435
71477	80099	80225	80456
80004	80119	80242	80482
80010	80128	80246	80483
80011	80131	80249	80489
80014	80134	80260	80491
80022	80140	80266	80497
80024	80141	80307	80498

B&O

10043	11311	12347	13518	14497
10059	11346	12363	13542	14509
10066	11393	12371	13555	14538
10084	11396	12526	13565	14559
10136	11448	12528	13679	14561
10155	11459	12535	13683	14570
10159	11471	12608	13771	14612
10180	11492	12662	13781	14636
10234	11495	12682	13785	14741
10315	11553	12685	13797	14753
10348	11570	12717	13939	14801
10378	11663	12841	13995	14804
10386	11677	12882	14029	14838
10407	11693	12895	14054	14841
10428	11847	12953	14107	14975
10432	11910	12990	14187	14976
10439	12025	13052	14193	14988
10543	12027	13076	14209	15090
10652	12045	13293	14241	15093
10722	12124	13302	14271	15118
10928	12131	13361	14328	15138
10932	12149	13457	14349	15158
10945	12234	13476	14378	15217
11075	12326	13501	14410	
11219	12330	13508	14466	

H.

C&O

103009	103348	103655	103967
103011	103351	103657	103974
103012	103359	103684	103975
103017	103362	103709	103993
103021	103368	103711	
103034	103382	103718	
103049	103395	103721	
103057	103410	103730	
103066	103417	103790	
103068	103419	103793	
103079	103437	103814	
103114	103451	103823	
103158	103466	103838	
103167	103485	103845	
103196	103487	103847	
103201	103489	103882	
103206	103504	103883	
103213	103515	103892	
103240	103525	103895	
103243	103530	103908	
103251	103557	103909	
103258	103565	103910	
103269	103567	103922	
103286	103584	103948	
103308	103591	103957	
103315	103609	103964	
103325	103635	103966	

150006	150396	150666	151053
150060	150406	150688	151066
150063	150412	150703	151093
150071	150457	150707	151096
150116	150464	150712	151159
150134	150483	150723	151176
150188	150498	150733	151209
150192	150500	150761	151227
150210	150517	150800	151243
150216	150525	150820	151266
150235	150531	150826	151271
150282	150534	150829	151313
150325	150542	150838	151367
150340	150549	150846	151368
150346	150586	150941	151403
150350	150657	150966	151451
150363	150659	150989	
150372	150662	150999	

See page 6 of  
Exhibit A  
to Amendment

**Interstate Commerce Commission**  
Washington, D.C. 20423

OFFICE OF THE SECRETARY

2/14/79

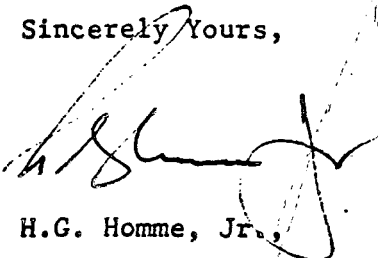
John S. Herbert  
Cravath, Swaine & Moore  
One Chase Manhattan Plaza  
New York, N.Y. 10005

Dear Sir:

The enclosed document(s) was recorded pursuant to the  
provisions of Section 20(c) of the Interstate Commerce Act,

49 U.S.C. 20(c), on 2/14/79 at 2:45pm ,  
and assigned recordation number(s) 98411\_E

Sincerely Yours,

  
H.G. Homme, Jr.,  
Secretary

Enclosure(s)

SE-30-T  
(2/78)

RECORDATION NO. 9811-E Filed 1425

FEB 14 1979 -1 45 PM

INTERSTATE COMMERCE COMMISSION

AMENDMENT AND AGREEMENT dated as of February 1, 1979, among CONNELL RICE & SUGAR CO., INC. (Connell Leasing Company Division) (the "Vendee"), THE CHESAPEAKE AND OHIO RAILWAY COMPANY (the "Builder" or the "Lessee") and MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, as Agent (the "Agent").

WHEREAS the Vendee, the Agent and the Builder have entered into a Participation Agreement dated as of October 1, 1978 (the "Participation Agreement"), and a Reconstruction and Conditional Sale Agreement dated as of October 1, 1978 (the "RCSA"); the Agent and the Vendee have entered into a Transfer Agreement dated as of October 1, 1978 (the "Transfer Agreement"), and an Assignment of Lease and Agreement dated as of October 1, 1978 (the "Lease Assignment"); the Vendee and the Lessee have entered into a Lease of Railroad Equipment dated as of October 1, 1978 (the "Lease"), and a Hulk Purchase Agreement dated as of October 1, 1978 (the "Hulk Purchase Agreement") (such Participation Agreement, RCSA, Transfer Agreement, Lease, Lease Assignment and Hulk Purchase Agreement being hereinafter collectively called the "Documents");

WHEREAS the RCSA, the Transfer Agreement, the Lease, the Lease Assignment and the Hulk Purchase Agreement

were filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303 on October 31, 1978, at 1:05 p.m. and were assigned recordation numbers 9811, 9811-A, 9811-B, 9811-C and 9811-D, respectively; and

WHEREAS the parties hereto desire to amend the Participation Agreement and the RCSA to provide for the presentation by the Builder of supplemental invoices for certain units of Equipment and the payment of such supplemental invoices; and

WHEREAS the parties hereto desire to exclude five Hulks (as defined in the Hulk Purchase Agreement) from the transaction contemplated by the Documents.

NOW, THEREFORE, in consideration of the mutual agreements herein contained, the parties hereto agree as follows:

1. The second sentence of the second paragraph of Article 3 of the RCSA is hereby amended in its entirety as shown in Item 1 of Exhibit A hereto.
2. The third paragraph of Article 3 of the RCSA is hereby amended in its entirety as shown in Item 2 of Exhibit A hereto.
3. The eighth paragraph of Article 3 of the RCSA is hereby amended in its entirety as shown in Item 3 of Exhibit A hereto.

4. The first paragraph of Paragraph 2 of the Participation Agreement is hereby amended in its entirety as shown in Item 4 of Exhibit A hereto.

5. The parties hereto agree that the approval of such supplemental invoices by the Agent, the Vendee and the Builder as are presented by the Builder shall constitute agreement by each such party to an increase in the Reconstruction Cost (as defined in the RCSA) of the Equipment in accordance with Article 3 of the RCSA.

6. The Participation Agreement is hereby amended by deleting from Paragraph 1 thereof the following: "\$7,092,741.00", and substituting therefor: "\$7,153,333.00".

7. The RCSA is hereby amended by deleting from the first paragraph of Article 3 thereof the following: "\$4,105,141.00" and substituting therefor: "\$4,456,340.00".

8. Section 2 of the Lease is hereby amended in its entirety as shown in Item 5 of Exhibit A hereto.

9. The Agent hereby releases and reassigns to the Vendee, without warranty, its security interest in and security title to the Hulks identified with the railroad road numbers specified in Item 6 of Exhibit A hereto, held pursuant to Article 4 of the RCSA and Paragraph 1 of the Transfer Agreement.

X 10. The RCSA and the Lease are hereby amended by X  
deleting from Schedule A to both the RCSA and the Lease the  
railroad road numbers specified in Item 6 of Exhibit A  
hereto.

X 11. The Vendee does hereby sell, assign, transfer X  
and set over to the Lessee, without warranty, all its right,  
title and interest in and to the Hulks identified by the  
railroad road numbers specified in Item 6 of Exhibit A  
hereto.

12. The RCSA and the Lease are hereby amended by  
deleting from Schedule A to both the RCSA and the Lease the  
lines specified in Item 7 of Exhibit A hereto and substi-  
tuting in place therefor the lines specified in Item 8 of  
Exhibit A hereto.

13. The Lease is hereby amended by deleting Table 2  
to Schedule B thereto and substituting in place thereof the  
schedule specified in Item 9 of Exhibit A hereto.

14. The Documents are hereby amended to permit the  
aforesaid amendments thereto.

15. Except as amended hereby, the Documents shall  
remain in full force and effect.

16. The Lessee will promptly cause this Amendment  
and Agreement to be filed in accordance with the provisions  
of Article 17 of the RCSA, Section 14 of the Lease and

Paragraph 7 of the Lease Assignment.

17. The terms of this Amendment and Agreement and all the rights and obligations hereunder shall be governed by the laws of the State of New Jersey.

18. This Amendment and Agreement may be executed in any number of counterparts, all of which together shall constitute a single instrument. It shall not be necessary that any counterpart be signed by all the parties so long as each party shall sign at least one counterpart and the Agent shall sign all counterparts.

IN WITNESS WHEREOF, the parties hereto have caused their names to be signed hereto by their respective officers thereunto duly authorized, and their respective corporate seals duly attested, to be hereunto affixed as of the day and year first above written.

THE CHESAPEAKE AND OHIO RAILWAY  
COMPANY,

by

J. P. Zmely  
Vice-President

[Corporate Seal]

Attest:

Peterson J. Tunady  
Assistant Secretary

APPROVED AS TO FORM  
C. C. Kimball  
GENERAL ATTORNEY  
2/13/79

CONNELL RICE & SUGAR CO., INC.  
(Connell Leasing Company Division),

by

\_\_\_\_\_  
President

[Corporate Seal]

Attest:

\_\_\_\_\_  
Secretary


MERCANTILE-SAFE DEPOSIT AND  
TRUST COMPANY, as Agent,

by

  
\_\_\_\_\_  
Assistant Vice President

[Corporate Seal]

Attest:

  
\_\_\_\_\_  
Corporate Trust Officer

STATE OF OHIO,           )  
                              ) ss:  
COUNTY OF CUYAHOGA,    )

On this 13th day of February 1979, before me personally appeared J. P. GANLEY, to me personally known, who, being by me duly sworn, says that he is a Vice-President of THE CHESAPEAKE AND OHIO RAILWAY COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

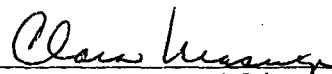
[Notarial Seal]

My Commission expires

CLARA MASUGA, Notary Public

State of Ohio - Cuyahoga County

My Commission Expires April 21, 1979

  
\_\_\_\_\_  
Notary Public

STATE OF NEW JERSEY,   )  
                              ) ss:  
COUNTY OF UNION,        )

On this           day of February 1979, before me personally appeared           , to me personally known, who, being by me duly sworn, says that he is the President of CONNELL RICE & SUGAR CO., INC. (Connell Leasing Company Division), that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

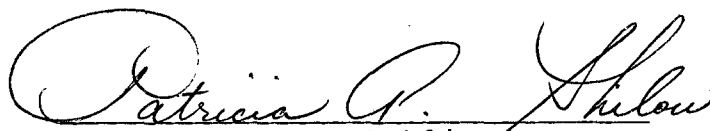
[Notarial Seal]

My Commission expires

\_\_\_\_\_  
Notary Public

STATE OF MARYLAND, )  
 ) ss:  
CITY OF BALTIMORE, )

On this 12<sup>th</sup> day of February 1979, before me personally appeared G. J. Johnston, to me personally known, who, being by me duly sworn, says that he is Assistant Vice President of MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said company, that said instrument was signed and sealed on behalf of said company by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said company.

  
Notary Public

[Notarial Seal]

My Commission expires 7-1-82

## Amendment and Agreement

### Exhibit A

Item 1:

"Subject to the terms and conditions of the third and eighth paragraphs of this Article 3, the term 'Closing Date' with respect to any Group shall mean such date not later than February 15, 1979 (herein sometimes called the Cut-Off Date), occurring not more than ten business days following presentation by the Builder to the Vendee of the invoice (addressed to the Vendor and approved as to price by the Vendee) and the Certificate or Certificates of Acceptance for such Group, as shall be fixed by the Builder by written notice delivered to the Vendee and the Vendor at least three business days prior to the Closing Date designated therein."

Item 2:

"The Vendee hereby acknowledges itself to be indebted to the Vendor in the amount of, and hereby promises to pay (and the Builder is hereby constituted a third party beneficiary of such obligation) in immediately available funds to the Vendor at such place as the Vendor may designate, the Purchase Price of each Group of the Equipment, as follows:

"(a) in 16 semiannual installments, as hereinafter provided, an amount (herein called the CSA Indebtedness) equal to 63.0973282% of the aggregate of the Purchase Prices of the units of the Equipment in the Group for which settlement is then being made as set forth in the invoice or invoices (including any supplemental invoice or invoices as hereinafter provided) therefor (said invoice prices being hereinafter called the Invoiced Purchase Prices); and

"(b) on the Closing Date or Dates with respect to the units of Equipment in each Group such amounts (herein called the Down Payment) as shall in the aggregate be equal to the aggregate Purchase Price of such Group, less the amount payable pursuant to subparagraph (a) of this paragraph; provided, however, that the Vendee shall not be required to make such payments until there shall have been delivered to the Vendor on or prior to such date

or dates the documents required to be delivered thereto pursuant to the eighth paragraph of this Article 3.

In the event that on any Closing Date the final Purchase Price of any Group has not been finally determined, the invoice presented may be for an estimated Purchase Price, subject to adjustment upon determination of the final Purchase Price, and a supplemental invoice may be presented by the Builder at least two days prior to any subsequent Closing Date for settlement on such subsequent Closing Date for any increase in the Purchase Price; provided, however, that no supplemental invoice may be presented after February 13, 1979."

Item 3:

"On the Closing Date or Dates with respect to each Group, such amount or amounts as shall in the aggregate be equal to the Invoiced Purchase Prices of such Group shall be paid in immediately available funds by the Vendor to the Builder from the proceeds of (y) the amounts available to the Vendor, under and pursuant to the terms of the Participation Agreement and the Supplement thereto dated as of February 1, 1979, among the Lessee, the Vendor, the Vendee and the parties named in Schedule A thereto, to make payments on such Closing Date or Dates in amounts equal to the CSA Indebtedness and (z) the Down Payment payable by the Vendee pursuant to clause (b) of the third paragraph of this Article 3 against the obligation of the Vendee to pay to the Lessee or the Builder the Hulk Purchase Price and Reconstruction Cost with respect to such Group; provided that there shall have been delivered to the Vendor on the initial Closing Date with respect to such Group the following documents, in form and substance satisfactory to it and its special counsel:

"(a) the Certificate or Certificates of Acceptance contemplated by Article 2 hereof and Section 1 of the Lease with respect to the Equipment in such Group;

"(b) invoices of the Builder for the reconstruction of the Equipment in the Group

and invoices of the Lessee for the Hulks, accompanied by, or having endorsed on such invoices or copies thereof the approval of the Vendee of the price stated therein and a certification by the Builder that the Invoiced Purchase Prices have been calculated as provided in the first paragraph of this Article 3 and do not exceed the prices that would be charged by an independent car builder for comparable equipment;

"(c) a favorable opinion of counsel for the Builder, dated as of such Closing Date, stating that at the time of delivery of the units of the Equipment in such Group on behalf of the Vendor to the Vendee hereunder, title to such units was free of all claims, liens, security interests and other encumbrances of the Builder or of anyone claiming through the Builder; and

"(d) a favorable opinion of counsel for the Lessee, dated as of such Closing Date, stating that as of such date title to the Hulks from which such units of the Equipment in such Group were reconstructed was vested in the Vendee and was free of all claims, liens, security interests and encumbrances of any nature whatsoever except for those arising under this Agreement or the Exhibits hereto;

and, provided further, that with respect to Equipment for which a supplemental invoice is presented by the Builder as permitted by the third paragraph of this Article 3 there need only be delivered to the Vendor, in form and substance satisfactory to it and its special counsel, such supplemental invoice or invoices of the Builder for the reconstruction of the units of Equipment in the Group, accompanied by, or having endorsed on such invoices or copies thereof the approval of the Vendee of the price stated therein and a certification by the Builder that the Invoiced Purchase Prices have been calculated as provided in the first paragraph of this Article 3 and do not exceed the prices that would be charged by an independent car builder for comparable equipment."

Item 4:


"2. Subject to the terms and conditions hereof, the original Investor will pay to the Agent, in Federal or other immediately available funds in Baltimore, not later than 10:00 a.m., Baltimore time, on December 1, 1978, December 28, 1978, and January 25, 1979 (each such date being hereinafter called a Closing Date), the amount of \$1,231,845.30, \$1,972,898.90, and \$1,277,588.90, respectively. The Agent will give to each Investor written notice of the payment to be made by such Investor at least six business days prior to its Closing Date."

Item 5:

"Section 2. Rental. The Lessee agrees to pay to the Lessor as rental for each Unit subject to this Lease one interim and 16 consecutive semiannual payments in arrears. The interim payment is payable on February 15, 1979. The 16 semiannual payments are payable on February 15 and August 15 in each year, commencing August 15, 1979, to and including February 15, 1987. The interim payment payable on February 15, 1979, shall be \$136,049.00. The 16 semiannual rental payments with respect to each Unit then subject to this Lease shall each be in an amount equal to 7.17601% of the Purchase Price of each such Unit for each Unit delivered and accepted under the RCSA."

Item 6:

C&O 19789  
C&O 150325  
C&O 150340  
C&O 150534  
B&O 352005



## Deleted

Item 7:	30	XM	50' 50-ton Boxcars	D	91357	3,000	90,000	4,420	132,600	7,420	222,600
	200	GB	52'6" 70-ton Gondola Cars	F	91371	4,000	800,000	6,103	1,220,600	10,103	2,020,600
	155	HT	70-ton Open Top Hoppers	H	91376	4,000	620,000	5,030	779,650	9,030	1,399,650
	<u>703</u>						<u>\$2,716,000</u>		<u>\$3,731,946</u>		<u>\$6,447,946</u>

## Replacements

Item 8:	29	XM	50' 50-ton Boxcars	D	91357	3,000	87,000	4,420	128,180	7,420	215,180
	199	GB	52'6" 70-ton Gondola Cars	F	91371	4,000	796,000	6,103	1,214,497	10,103	2,010,497
	152	HT	70-ton Open Top Hoppers	H	91376	4,000	608,000	5,030	764,560	9,030	1,372,560
	<u>698</u>						<u>\$2,697,000</u>		<u>\$3,706,333</u>		<u>\$6,403,333</u>

Item 9:

Table 2

The percentages set forth in Table 1 of this Schedule B have been computed without regard to recapture of the Investment Tax Credit (as defined in Section 15 relating to certain tax indemnities). Consequently, the Casualty Value of any Unit suffering a Casualty Occurrence on or before the third, fifth or seventh anniversary of the date of delivery and acceptance of such Unit shall be increased by the applicable percentage of the Purchase Price set forth below:

<u>Anniversary of Delivery and Acceptance</u>	<u>Percentage of Purchase Price</u>
Third	11.98077
Fifth	7.98718
Seventh	3.99359

AMENDMENT AND AGREEMENT dated as of February 1, 1979, among CONNELL RICE & SUGAR CO., INC. (Connell Leasing Company Division) (the "Vendee"), THE CHESAPEAKE AND OHIO RAILWAY COMPANY (the "Builder" or the "Lessee") and MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, as Agent (the "Agent").

WHEREAS the Vendee, the Agent and the Builder have entered into a Participation Agreement dated as of October 1, 1978 (the "Participation Agreement"), and a Reconstruction and Conditional Sale Agreement dated as of October 1, 1978 (the "RCSA"); the Agent and the Vendee have entered into a Transfer Agreement dated as of October 1, 1978 (the "Transfer Agreement"), and an Assignment of Lease and Agreement dated as of October 1, 1978 (the "Lease Assignment"); the Vendee and the Lessee have entered into a Lease of Railroad Equipment dated as of October 1, 1978 (the "Lease"), and a Hulk Purchase Agreement dated as of October 1, 1978 (the "Hulk Purchase Agreement") (such Participation Agreement, RCSA, Transfer Agreement, Lease, Lease Assignment and Hulk Purchase Agreement being hereinafter collectively called the "Documents");

WHEREAS the RCSA, the Transfer Agreement, the Lease, the Lease Assignment and the Hulk Purchase Agreement

were filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303 on October 31, 1978, at 1:05 p.m. and were assigned recordation numbers 9811, 9811-A, 9811-B, 9811-C and 9811-D, respectively; and

WHEREAS the parties hereto desire to amend the Participation Agreement and the RCSA to provide for the presentation by the Builder of supplemental invoices for certain units of Equipment and the payment of such supplemental invoices; and

WHEREAS the parties hereto desire to exclude five Hulks (as defined in the Hulk Purchase Agreement) from the transaction contemplated by the Documents.

NOW, THEREFORE, in consideration of the mutual agreements herein contained, the parties hereto agree as follows:

1. The second sentence of the second paragraph of Article 3 of the RCSA is hereby amended in its entirety as shown in Item 1 of Exhibit A hereto.
2. The third paragraph of Article 3 of the RCSA is hereby amended in its entirety as shown in Item 2 of Exhibit A hereto.
3. The eighth paragraph of Article 3 of the RCSA is hereby amended in its entirety as shown in Item 3 of Exhibit A hereto.

4. The first paragraph of Paragraph 2 of the Participation Agreement is hereby amended in its entirety as shown in Item 4 of Exhibit A hereto.

5. The parties hereto agree that the approval of such supplemental invoices by the Agent, the Vendee and the Builder as are presented by the Builder shall constitute agreement by each such party to an increase in the Reconstruction Cost (as defined in the RCSA) of the Equipment in accordance with Article 3 of the RCSA.

6. The Participation Agreement is hereby amended by deleting from Paragraph 1 thereof the following:  
"\$7,092,741.00", and substituting therefor: "\$7,153,333.00".

7. The RCSA is hereby amended by deleting from the first paragraph of Article 3 thereof the following:  
"\$4,105,141.00" and substituting therefor: "\$4,456,340.00".

8. Section 2 of the Lease is hereby amended in its entirety as shown in Item 5 of Exhibit A hereto.

9. The Agent hereby releases and reassigns to the Vendee, without warranty, its security interest in and security title to the Hulks identified with the railroad road numbers specified in Item 6 of Exhibit A hereto, held pursuant to Article 4 of the RCSA and Paragraph 1 of the Transfer Agreement.

10. The RCSA and the Lease are hereby amended by deleting from Schedule A to both the RCSA and the Lease the railroad road numbers specified in Item 6 of Exhibit A hereto.

11. The Vendee does hereby sell, assign, transfer and set over to the Lessee, without warranty, all its right, title and interest in and to the Hulks identified by the railroad road numbers specified in Item 6 of Exhibit A hereto.

12. The RCSA and the Lease are hereby amended by deleting from Schedule A to both the RCSA and the Lease the lines specified in Item 7 of Exhibit A hereto and substituting in place therefor the lines specified in Item 8 of Exhibit A hereto.

13. The Lease is hereby amended by deleting Table 2 to Schedule B thereto and substituting in place thereof the schedule specified in Item 9 of Exhibit A hereto.

14. The Documents are hereby amended to permit the aforesaid amendments thereto.

15. Except as amended hereby, the Documents shall remain in full force and effect.

16. The Lessee will promptly cause this Amendment and Agreement to be filed in accordance with the provisions of Article 17 of the RCSA, Section 14 of the Lease and

Paragraph 7 of the Lease Assignment.

17. The terms of this Amendment and Agreement and all the rights and obligations hereunder shall be governed by the laws of the State of New Jersey.

18. This Amendment and Agreement may be executed in any number of counterparts, all of which together shall constitute a single instrument. It shall not be necessary that any counterpart be signed by all the parties so long as each party shall sign at least one counterpart and the Agent shall sign all counterparts.

IN WITNESS WHEREOF, the parties hereto have caused their names to be signed hereto by their respective officers thereunto duly authorized, and their respective corporate seals duly attested, to be hereunto affixed as of the day and year first above written.

THE CHESAPEAKE AND OHIO RAILWAY  
COMPANY,

by

\_\_\_\_\_  
Vice-President

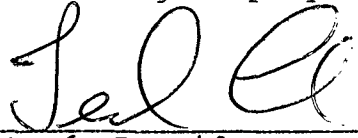
[Corporate Seal]

Attest:

\_\_\_\_\_  
Assistant Secretary

CONNELL RICE & SUGAR CO., INC.  
(Connell Leasing Company Division),

by

  
Vice President


[Corporate Seal]

Attest:

  
Secretary

MERCANTILE-SAFE DEPOSIT AND  
TRUST COMPANY, as Agent,

by

  
Assistant Vice President

[Corporate Seal]

Attest:

  
Corporate Trust Officer

[illegible]

On this                    day of February 1979, before me personally appeared                    , to me personally known, who, being by me duly sworn, says that he is a Vice-President of THE CHESAPEAKE AND OHIO RAILWAY COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

[Notarial Seal]

My Commission expires

[illegible]

On this 13<sup>th</sup> day of February 1979, before me personally appeared Ted Connell, to me personally known, who, being by me duly sworn, says that he is the President of CONNELL RICE & SUGAR CO., INC. (Connell Leasing Company Division), that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public


[Notarial Seal]


My Commission expires

**NOTARY PUBLIC OF NEW JERSEY**  
My Commission Expires Nov. 28, 1982

STATE OF MARYLAND, )  
 ) ss:  
CITY OF BALTIMORE, )

On this *12<sup>th</sup>* day of February 1979, before me personally appeared *G. J. Johnston*, to me personally known, who, being by me duly sworn, says that he is Assistant Vice President of MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said company, that said instrument was signed and sealed on behalf of said company by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said company.

  
Notary Public

 [Notarial Seal]

My Commission expires *7-1-82*

Amendment and Agreement

Exhibit A

Item 1:

"Subject to the terms and conditions of the third and eighth paragraphs of this Article 3, the term 'Closing Date' with respect to any Group shall mean such date not later than February 15, 1979 (herein sometimes called the Cut-Off Date), occurring not more than ten business days following presentation by the Builder to the Vendee of the invoice (addressed to the Vendor and approved as to price by the Vendee) and the Certificate or Certificates of Acceptance for such Group, as shall be fixed by the Builder by written notice delivered to the Vendee and the Vendor at least three business days prior to the Closing Date designated therein."

Item 2:

"The Vendee hereby acknowledges itself to be indebted to the Vendor in the amount of, and hereby promises to pay (and the Builder is hereby constituted a third party beneficiary of such obligation) in immediately available funds to the Vendor at such place as the Vendor may designate, the Purchase Price of each Group of the Equipment, as follows:

"(a) in 16 semiannual installments, as hereinafter provided, an amount (herein called the CSA Indebtedness) equal to 63.0973282% of the aggregate of the Purchase Prices of the units of the Equipment in the Group for which settlement is then being made as set forth in the invoice or invoices (including any supplemental invoice or invoices as hereinafter provided) therefor (said invoice prices being hereinafter called the Invoiced Purchase Prices); and

"(b) on the Closing Date or Dates with respect to the units of Equipment in each Group such amounts (herein called the Down Payment) as shall in the aggregate be equal to the aggregate Purchase Price of such Group, less the amount payable pursuant to subparagraph (a) of this paragraph; provided, however, that the Vendee shall not be required to make such payments until there shall have been delivered to the Vendor on or prior to such date

or dates the documents required to be delivered thereto pursuant to the eighth paragraph of this Article 3.

In the event that on any Closing Date the final Purchase Price of any Group has not been finally determined, the invoice presented may be for an estimated Purchase Price, subject to adjustment upon determination of the final Purchase Price, and a supplemental invoice may be presented by the Builder at least two days prior to any subsequent Closing Date for settlement on such subsequent Closing Date for any increase in the Purchase Price; provided, however, that no supplemental invoice may be presented after February 13, 1979."

Item 3:

"On the Closing Date or Dates with respect to each Group, such amount or amounts as shall in the aggregate be equal to the Invoiced Purchase Prices of such Group shall be paid in immediately available funds by the Vendor to the Builder from the proceeds of (y) the amounts available to the Vendor, under and pursuant to the terms of the Participation Agreement and the Supplement thereto dated as of February 1, 1979, among the Lessee, the Vendor, the Vendee and the parties named in Schedule A thereto, to make payments on such Closing Date or Dates in amounts equal to the CSA Indebtedness and (z) the Down Payment payable by the Vendee pursuant to clause (b) of the third paragraph of this Article 3 against the obligation of the Vendee to pay to the Lessee or the Builder the Hulk Purchase Price and Reconstruction Cost with respect to such Group; provided that there shall have been delivered to the Vendor on the initial Closing Date with respect to such Group the following documents, in form and substance satisfactory to it and its special counsel:

"(a) the Certificate or Certificates of Acceptance contemplated by Article 2 hereof and Section 1 of the Lease with respect to the Equipment in such Group;

"(b) invoices of the Builder for the reconstruction of the Equipment in the Group

and invoices of the Lessee for the Hulks, accompanied by, or having endorsed on such invoices or copies thereof the approval of the Vendee of the price stated therein and a certification by the Builder that the Invoiced Purchase Prices have been calculated as provided in the first paragraph of this Article 3 and do not exceed the prices that would be charged by an independent car builder for comparable equipment;

"(c) a favorable opinion of counsel for the Builder, dated as of such Closing Date, stating that at the time of delivery of the units of the Equipment in such Group on behalf of the Vendor to the Vendee hereunder, title to such units was free of all claims, liens, security interests and other encumbrances of the Builder or of anyone claiming through the Builder; and

"(d) a favorable opinion of counsel for the Lessee, dated as of such Closing Date, stating that as of such date title to the Hulks from which such units of the Equipment in such Group were reconstructed was vested in the Vendee and was free of all claims, liens, security interests and encumbrances of any nature whatsoever except for those arising under this Agreement or the Exhibits hereto;

and, provided further, that with respect to Equipment for which a supplemental invoice is presented by the Builder as permitted by the third paragraph of this Article 3 there need only be delivered to the Vendor, in form and substance satisfactory to it and its special counsel, such supplemental invoice or invoices of the Builder for the reconstruction of the units of Equipment in the Group, accompanied by, or having endorsed on such invoices or copies thereof the approval of the Vendee of the price stated therein and a certification by the Builder that the Invoiced Purchase Prices have been calculated as provided in the first paragraph of this Article 3 and do not exceed the prices that would be charged by an independent car builder for comparable equipment."

- Item 4: "2. Subject to the terms and conditions hereof, the original Investor will pay to the Agent, in Federal or other immediately available funds in Baltimore, not later than 10:00 a.m., Baltimore time, on December 1, 1978, December 28, 1978, and January 25, 1979 (each such date being hereinafter called a Closing Date), the amount of \$1,231,845.30, \$1,972,898.90, and \$1,277,588.90, respectively. The Agent will give to each Investor written notice of the payment to be made by such Investor at least six business days prior to its Closing Date."
- Item 5: "Section 2. Rental. The Lessee agrees to pay to the Lessor as rental for each Unit subject to this Lease one interim and 16 consecutive semiannual payments in arrears. The interim payment is payable on February 15, 1979. The 16 semiannual payments are payable on February 15 and August 15 in each year, commencing August 15, 1979, to and including February 15, 1987. The interim payment payable on February 15, 1979, shall be \$136,049.00. The 16 semiannual rental payments with respect to each Unit then subject to this Lease shall each be in an amount equal to 7.17601% of the Purchase Price of each such Unit for each Unit delivered and accepted under the RCSA."
- Item 6: C&O 19789  
C&O 150325  
C&O 150340  
C&O 150534  
B&O 352005

Item 7:	30	XM	50' 50-ton Boxcars	D	91357	3,000	90,000	4,420	132,600	7,420	222,600
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Item 9:

Table 2

The percentages set forth in Table 1 of this Schedule B have been computed without regard to recapture of the Investment Tax Credit (as defined in Section 15 relating to certain tax indemnities). Consequently, the Casualty Value of any Unit suffering a Casualty Occurrence on or before the third, fifth or seventh anniversary of the date of delivery and acceptance of such Unit shall be increased by the applicable percentage of the Purchase Price set forth below:

<u>Anniversary of Delivery and Acceptance</u>	<u>Percentage of Purchase Price</u>
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Fifth	7.98718
Seventh	3.99359